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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,471	09/23/2003	Edwin Collier	21311-0001	2946

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EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,471

Applicant(s)

COLLIER, EDWIN

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

It is suggested that in:

Paragraph [0042], line 4, after "...top surface...", delete "29" and insert -28--.

Paragraph [0044], line 2, after "...top surface...", delete "23" and insert -27--.

Paragraph [0044], line 3, after "...top surface...", delete "27" and insert -23--.

Paragraph [0044], line 6, after "...striking plate..." delete "20" and insert -18--.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,846,119 to Long.

Long discloses a wild game call comprising: a box (20) having a base (22) attached to substantially vertical sidewalls (32, 34, 36), the sidewalls forming an opening (see fig.1); a striking plate (44) comprising at least one friction material (see column 3, lines 42-45) and having a main body (24) operatively connected to the box to form a top of the box (see fig.1), the at least one friction material being disposed on a top striking surface of the striking plate (see fig.1), the top striking surface being configured to be used with a striker (see figs. 3a-4b), the main body being substantially coextensive with the sidewalls (see figs.1, 3a-4b), and comprising a protruding portion (defined by the top portion of 24) being disposed adjacent to the opening and being configured to extend over and beyond the opening (see figs.1, 3a-4b); wherein the protruding portion comprises a bottom surface (42) and wherein the bottom surface of the protruding portion is a bottom striking surface (see fig. 3b, and column 3, lines 57-65); wherein a thickest portion of the striking plate is adjacent a sidewall opening (see figs. 3b, 4b); wherein a thickness of the protruding portion of the striking plate narrows gradually to form a thin unsecured end (see figs.1, 2, the top protruding portion of 24 narrows gradually to form a thin unsecured end).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long in view of U.S. Patent No. 6,669,528 B2 to Kaelin.

Long discloses the claimed invention except for the thickness of the striking plate varying over a length of the plate, and a sidewall comprising an aperture. However, Kaelin teaches a box game call with the thickness of the striking plate (2) varying over a length of the plate (see fig. 2, the thickness of plate 2 gradually becomes thinner toward the end of the plate 2 that is adjacent to the sidewall 13), and a sidewall (14) comprising an aperture (19). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the box game call of Long, in view of Kaelin, such that it would provide the box game call of Long with the thickness of the striking plate varying over a length of the plate, and a sidewall comprising an aperture for the purpose of varying the pitch and tone of the sound produced by the box game call.

Claims 6-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long in view of U.S. Patent No. 5,830,036 to Richardson.

Long discloses the claimed invention except for the striking plate comprising a plurality of friction materials on at least a portion or the entire top or bottom striking surface, the striking plate is comprised of at least one hollow or semi-hollow structure which extends along at least a portion of a length of the striking plate, the at least one structure comprises at least one groove/channel in a bottom surface of the striking plate with a shape selected from the group consisting of: rectangular, v-shaped, and rounded,

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the at least one channel is entirely enclosed within the striking plate and is comprised of at least one open end, a material selected from the group consisting of galvanized steel, sand, weather resistant thermoplastic, and combinations thereof is embedded in the striking plate.

However, Richardson teaches a box game call with the striking plate (10) comprising a plurality of friction materials on at least a portion or the entire top or bottom striking surface (see column 8, lines 42-51), the striking plate is comprised of at least one hollow or semi-hollow structure (see figs. 4, 6, striking plate 10 is semi-hollow) which extends along at least a portion of a length of the striking plate (see figs. 6-9), the at least one structure comprises at least one groove/channel (18) in a bottom surface of the striking plate with a shape selected from the group consisting of: rectangular, v-shaped, and rounded (see fig. 6, the channel 18 is rounded), the at least one channel is entirely enclosed within the striking plate (see figs. 2, 5, 13) and is comprised of at least one open end (see fig. 6, defined by reference numeral 28c), a material selected from the group consisting of galvanized steel, sand, weather resistant thermoplastic, and combinations thereof is embedded in the striking plate (see column 8, lines 42-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the box game call of Long, in view of Richardson, such that it would provide the box game call of Long with the aforementioned limitations for the purpose of enhancing the quality of pitch and tone of the sound produced by the box game call.

Response to Arguments

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (703) 308-2159.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA

10/27/2004


A. L. WELLINGTON
ADVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700